



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OCT 1 0 2006

VIA U.S. MAIL

Mr. Mark E. Braden, Esq.
Baker & Hostetler, LLP, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036

Re: MUR 5742
Bill McCollum for U.S. Senate and Richard Pilhorn,
in his official capacity as treasurer

Dear Mr. Braden:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on May 2, 2006, the Federal Election Commission found reason to believe that your clients, Bill McCollum for U.S. Senate and Richard Pilhorn, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) of the Federal Election Campaign Act, as amended, ("the Act") and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Lawrence H. Norton
General Counsel

Enclosure
Brief

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4)
5 Bill McCollum for U.S. Senate and)
6 Richard L. Pilhorn, in his official)
7 capacity as treasurer)
8)
9

MUR 5742

10 **GENERAL COUNSEL'S BRIEF**

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12 **I. INTRODUCTION**

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14 On May 2, 2006, the Federal Election Commission ("Commission") found reason to
15 believe that Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his official capacity as
16 treasurer, violated 2 U.S.C. § 434(b) by failing to report disbursements totaling \$755,839 in the
17 Committee's 2004 12 Day Pre-Primary Report. Based on the following factual and legal
18 analysis, this Office is prepared to recommend that the Commission find probable cause to
19 believe that Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his official capacity as
20 treasurer, violated 2 U.S.C. § 434(b).

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 The Federal Election Campaign Act of 1971, as amended ("the Act"), requires the
23 treasurer of a principal campaign committee of a candidate for the Senate to file, in any calendar
24 year during which there is a regularly scheduled election for which such candidate is seeking
25 election, disclosure reports including a pre-election report. See 2 U.S.C. § 434(a)(2)(A). The
26 pre-election report must disclose, for the reporting period and the election cycle, the total amount
27 of all disbursements and all disbursements in certain categories, along with the name and address
28 of each person who has received any disbursement in an aggregate amount or value in excess of
29 \$200 within the election cycle, together with the date and amount (and purpose if the

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disbursement is an "expenditure") of any such disbursement. See 2 U.S.C. §§ 434(b)(4), 434(b)(5) and 434(b)(6)(A).

Bill McCollum was a candidate in the 2003-2004 election cycle for Florida's Senate seat. His principal campaign committee, Bill McCollum for U.S. Senate, and Richard L. Pilhorn, in his official capacity as Treasurer, failed to report disbursements totaling \$755,839 in the Committee's 2004 12 Day Pre-Primary Report. On July 18, 2006, Respondents submitted a written response to the Commission's reason to believe findings that did not dispute that the Respondents failed to report these disbursements in the Committee's report.

Accordingly, this Office is prepared to recommend that the Commission find that there is probable cause to believe Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).

III. RECOMMENDATION

Find probable cause to believe that Bill McCollum for U.S. Senate and Richard L. Pilhorn, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).

Date

10/6/06

Lawrence H. Norton
General Counsel

Lawrence L. Calvert Jr.
Deputy Associate General Counsel
for Enforcement

Ann Marie Terzaken
Assistant General Counsel

Tracey L. Ligon
Attorney